

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN
GREEN BAY DIVISION**

**Kimberly-Clark Worldwide, Inc. and
Kimberly-Clark Global Sales, LLC,**

Plaintiffs,

v.

**First Quality Baby Products, LLC and
First Quality Retail Services, LLC,**

Defendants.

Civil Action No. 09-C-916

Judge Griesbach

**STIPULATED PARTIAL CONSENT JUDGMENT AND DISMISSAL
OF COUNTERCLAIM WITHOUT PREJUDICE**

This matter is before the Court on the stipulated motion of Plaintiffs Kimberly-Clark Worldwide, Inc. and Kimberly-Clark Global Sales, LLC (collectively “K-C”) and Defendants First Quality Baby Products, LLC and First Quality Retail Services, LLC (collectively “First Quality”) for entry of a Stipulated Partial Consent Judgment and Dismissal Without Prejudice.

WHEREBY, K-C and First Quality stipulate that:

1. K-C alleges that First Quality’s process used prior to June 15, 2010 (the “Original Process”) to manufacture refastenable training pants infringed Claim 9 of the ‘374 patent.
2. First Quality has denied infringement, both literally and under the doctrine of equivalents, and filed counterclaims seeking a declaratory judgment that the claims of the ‘374 patent are not infringed and invalid.
3. On January 20, 2011, the Court issued its Claim Construction Order construing certain terms of the ‘374 patent. (D.E. 334). In that Order, the Court determined

that certain steps of the asserted method claim (Claim 9) must be performed in the order recited. *See id.* at 25-26.

4. Under the Court's claim construction, First Quality's Original Process does not infringe Claim 9 of the '374 patent, either literally or under the doctrine of equivalents, because First Quality does not perform the method steps in the order recited in Claim 9.

5. K-C disagrees with the Court's claim construction and reserves its right to appeal.

IT IS HEREBY ORDERED with consent of K-C and First Quality:

1. Judgment of non-infringement of the '374 patent is entered in favor of First Quality.

2. First Quality's Seventeenth Counterclaim that seeks a declaratory judgment that the '374 patent is invalid is dismissed without prejudice.

3. Each party shall bear its own costs and attorney fees.

Dated this 4th day of April, 2011

By: s/ William C. Griesbach
Hon. William C. Griesbach
United States District Court Judge